

New Hampshire Council on Resources and Development

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FINAL MINUTES COUNCIL ON RESOURCES AND DEVELOPMENT SEPTEMBER 6, 2007

MEMBERS PRESENT

Amy Ignatius, Chairman, Director of the NH Office of Energy and Planning
William Carpenter, for George Bald, Commissioner of the NH Dept. of Resources and Economic Development
Timothy Drew, for Thomas Burack, Commissioner of the NH Dept. of Environmental Services
James McConaha, for Van McLeod, Commissioner of the NH Dept. of Cultural Resources
Linda Wilson, for Van McLeod, Commissioner of the NH Dept. of Cultural Resources
Richard Uncles, for Stephen Taylor, Commissioner of the NH Dept. of Agriculture, Markets and Food
Stephen Perry for Don Clarke, Interim Director of the NH Dept. of Fish and Game

OTHERS PRESENT

Representative Richard Snow, NH House of Representatives
Jennifer Czysz, NH Office of Energy and Planning
Michele Zydel, NH Office of Energy and Planning
Louis A. Barker, NH Dept. of Transportation, Bureau of Rail and Transit
Betsey McNaughten, NH Dept. of Fish and Game
Cindy Heath, City of Lebanon
Attorney Anne Edwards, NH Dept. of Justice
Attorney Anthony Blenkinsop, NH Dept. of Justice
Bill Gegas, NH Dept. of Resources and Economic Development
Chris Gamache, NH Dept. of Resources and Economic Development

I. ROLL CALL AND INTRODUCTIONS

Chairman Ignatius called the meeting to order at 9:34 AM at the NH Office of Energy and Planning, 57 Regional Drive, Concord, NH.

II. MINUTES

A. Approval of CORD Meeting Minutes of July 20, 2007.

ACTION: MOVED by Mr. Uncles, seconded by Mr. Carpenter, THAT the minutes of the Council meeting held on July 20, 2007 be approved, incorporating the following change proposed by Mr. Drew:

- On page 2, in the descriptive paragraph of SLR 07-005, the spelling of Windmere will be changed to Windemere.

The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

III. DISPOSAL OF STATE OWNED LAND SURPLUS LAND REVIEW (SLR)

A. LEBANON

SLR 07-007

Request to sell approximately 16,500 square feet of land in Lebanon to Howard Laware, Railroad Avenue, Lebanon, NH.

The Department of Transportation requests to sell approximately 16,500 square feet of land in Lebanon to Howard Laware on Railroad Avenue. Mr. Laware is the owner of the former barracks building in the railroad yard and has leased the land under and surrounding the building since his father purchased the building from the Boston and Maine Corporation. Mr. Laware and his family have asked to purchase the land under the building and a small driveway and yard area in order to make the longstanding lease arrangement permanent and to help facilitate future improvements and repairs to the building. DOT reports the parcel is a sufficient distance from the railroad main line track and sidings to maintain current and future railroad operations.

STAFF REPORT

30-day review period ended July 20, 2007

Administrative Services: No comment.

Agriculture, Markets, and Food: No objection.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No comment.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: No objection. Since the lot is serviced by municipal water and sewer it is not required to conform to the minimum 30,000 square foot minimum lot size requirement as specified in DES's Subsurface Systems Bureau administrative rules. Supporting information was not available to determine if there is any residual railroad contamination on the lot. See letter on file.

Fish and Game: No objection.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No objection.

Safety Services: No objection.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: Recommends approval.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No objections, but due to the current activity in the area (business development, possible recreational opportunities, historical preservation, hazardous waste clean up) wonders if it would be prudent for the State to maintain its options until these issues have been settled or more fully scoped. See letter on file.

City of Lebanon: Requests the application be tabled until the September CORD meeting as the City has been working with the State on the Westboro property (clean up and revitalization), may take ownership of roughly 8 acres in this area, and has an interest in this property as part of its revitalization plan. The City would like additional time to investigate feasibility and local interest and be able to speak at the next CORD meeting. See email on file.

Per email and phone conversations on September 4, 2007 the City is still interested in pursuing this property and recognizes that the Laware family is as well. The City intends to work with DOT to complete a fair market value assessment of the property to assist them in their final decision-making. As the City has not yet reached a final determination they request that this application remain on the table. See email on file.

September 6, 2007 Discussion:

This request had been tabled at the July 20, 2007 CORD meeting to allow the Laware's, NH Department of Transportation, and the City of Lebanon additional time for discussion. Chairman Ignatius asked if Council would like to take it off the table for review.

ACTION: MOVED by Mr. McConaha, seconded by Mr. Uncles, to REMOVE the request from the table.

Mr. Barker presented Council with copies of a letter written by the Laware family regarding their request. This letter was sent to the City of Lebanon and detailed the history of the Laware family's acquisition of the property and desire to keep it. Chairman Ignatius asked that Council read the letter and then opened discussion.

Mr. Barker stated that the Laware's are very interested in purchasing the land and that they have been caring for it for 80 years. They do not intend to alter the land in any way – they just want their family to continue living there.

Chairman Ignatius referred to a letter dated September 5, 2007 submitted by the City of Lebanon to the Office of Energy and Planning in which they expressed interest in acquiring the land as part of their revitalization plan. In the letter, the City asked CORD to table the request at this time to provide additional time for NHDOT to determine fair market value and for NHDES' report regarding the environmental condition of the property.

Ms. Heath told Council that the City had met with the Laware family twice in an effort to reach an agreement. She further stated that the City is still waiting for NHDES' environmental assessment. Mr. Drew responded that DES has not conducted an assessment of the property, but rather had submitted comments to CORD, as part of its review of the request, stating inadequate information was available to determine whether the site was contaminated by the former railroad.

Ms. Heath continued that the City is sensitive to the Laware family's request and are working towards a solution that will benefit both parties.

Mr. Uncles asked if the State is obliged to give preference to local government entities by way of statute. Ms. Czysz responded that following the reviews conducted by CORD and the Long Range Capital Planning and Utilization Committee, the agency is required to make a priority offering to the municipality.

Chairman Ignatius asked Mr. Barker if NHDOT has been asked to work on the property value assessment. Mr. Barker responded that they have not yet received a formal request from the City.

Mr. McConaha asked if a second surplus land review request should be submitted by the City due to their expressed interest in acquiring the property. Discussion concluded that since the City has right of first refusal, a second request would be moot.

Mr. Carpenter added that the intended use of the property by both parties is not compatible, the City has the right of first refusal, and CORD will need to perform research on what party has priority for land acquisition before a decision can be made. CORD has not dealt with a situation such as this where two parties seek the same land acquisition.

Mr. Drew asked if there was any reason why both uses could not co-exist. Ms. Heath responded that the City is considering that path.

Mr. Barker stated that a formal deed restriction will be placed on the property due to the results of the historical review.

ACTION: MOVED by Mr. Uncles, seconded by Mr. Drew, to TABLE the request to allow all entities involved additional time for discussion. The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

B. NEW HAMPTON

SLR 07-010

Request to grant an easement of 45 linear feet to Patricia Fazio for a sewer service line that crosses the New Hampton Fish Hatchery property.

The Fish and Game Department has received a request from Patricia Fazio of 129 Main Street, New Hampton, NH for a sewer service line easement that currently crosses New Hampton Fish Hatchery property located in New Hampton, NH. The New Hampshire Fish and Game Department purchased land in the Town of New Hampton in 1911 for the Hatchery. The property that encompasses the hatchery meanders throughout the Town. In 1977 the New Hampton Village Precinct planned and constructed a municipal sewer system. For two homes in Town, and for the Village Precinct itself, the sewer line crosses F&G property. For unknown reasons at the time of construction, easements were not drawn up for the lines that cross Department property so that they could be maintained in the future. The sewer line has no barring on the daily operations at the Hatchery.

STAFF REPORT

30-day review period ends September 26, 2007.

Administrative Services: No comment.

Agriculture, Markets, and Food: No concern.

Bureau of Emergency Management: No comment.

Division of Historical Resources: No comment.

Education: No objection.

Energy and Planning: No comment.

Environmental Services: No concerns since the application will formalize the existing sewer line dating to 1977.

Fish and Game: No comment.

Housing Finance Authority: No comment.

Health and Human Services: No objection.

Resources and Economic Development: No objections and notes there are no Natural Heritage Bureau records on the lot or within 1 mile of the site. See email on file.

Safety Services: No objection.

Transportation: No comment.

Lakes Management Advisory Committee: Not applicable.

Rivers Management Advisory Committee: This application falls under the jurisdiction of the RMAC and will be reviewed at their September 25, 2007 meeting.

Public Waters Access Advisory Board: No comment.

State Conservation Committee: No objection.

Town of New Hampton: No comment.

September 6, 2007 Discussion:

Ms. McNaughten provided CORD with background information related to this request. She stated that Fish and Game was unaware of the existing sewer lines until Ms. Fazio contacted

them for permission to access the line on State property due to a backup problem she was experiencing. It was determined the problem was on her property and ultimately repaired. However, upon further investigation it was discovered that two other sewer lines, in addition to Ms. Fazio's, crossed State-owned property.

Chairman Ignatius asked if there were any adverse review comments in the staff report. Ms. Czysz responded there were none and that the Rivers Management Advisory Committee will submit their review results to CORD following their committee meeting on September 25, 2007, noting that the comment period concludes on September 26, 2007. Ms. McNaughten said she understood RMAC's desire to review the request due to the property's proximity to the river.

Chairman Ignatius asked the members if they would want to table the request until after RMAC's review. Ms. McNaughten then disclosed there is some urgency involved as Ms. Fazio's home is for sale.

Mr. McConaha stated that in the past, CORD has conditionally approved requests pending no adverse comments received during the comment period. Discussion then centered on the ability to have this request added to the Long Range Capital Planning and Utilization Committee's meeting agenda (meeting date of September 25, 2007). Ms. McNaughten stated she would prefer that CORD conditionally approve the request so that it could meet Long Range's agenda deadline.

ACTION: MOVED by Mr. McConaha, seconded by Mr. Uncles, to APPROVE the request pending no adverse comments received through the comment period ending September 26, 2007. The motion passed unanimously, 7-0. Due to the lack of a quorum, a ballot vote will be issued.

Chairman Ignatius expressed concern over conditional approvals, calling them theoretical votes. She stated that there may not be enough time allotted to State agencies and committees to review requests due to CORD's revised meeting schedule. Mr. Carpenter agreed stating it was a violation of protocol that should be revisited and strengthened.

C. CLARKSVILLE SLR 07-011
Request to convey rights of way over specific State-owned roads in exchange for other much needed public rights of way over private land.

The Department of Resources and Economic Development (DRED) and the Department of Environmental Services – Water Resources Council (DES) have received a request to grant an easement deed for vehicular and pedestrian access rights over the following state owned roadways to Gaston and Pauline Rodrigue: Deadwater Road, Road 36-05, Cedar Stream Road, and First Road in Pittsburg and Clarksville, NH. In order to provide access necessary for desired economic development in Clarksville and to assure logging and public recreation access to significant areas of the Great North Woods, including the Connecticut Lakes Headwaters Forest, DRED and DES wish to exchange easement rights of access in perpetuity. The State will offer the Rodrigue's vehicular and pedestrian access rights as listed above and detailed in the application in exchange for an additional vehicle and

pedestrian access easement that may be used by the State and the public over Deadwater Road.

STAFF REPORT

Complete application was received on September 5, 2007 and distributed on September 6, 2007. Given this was the same date as the CORD meeting, reviews had not yet occurred. DRED requested that CORD still review this request given the time-sensitive nature of the application.

September 6, 2007 Discussion:

Chairman Ignatius asked if there were any other materials involved with this request that CORD has not yet received. Ms. Czysz responded that the complete application was received from DRED and DES as of 1:45 PM of the day before, September 5, 2007. Mr. Drew added that Commissioner Burack signed off on DES's application.

Attorney Edwards presented CORD with an overview of the areas from a map shaded to depict State-owned property and the roadways. She noted that there are 177,000 acres of State-owned land under easement and 25,000 acres of natural area protected by the Department of Fish and Game; the Water Resources Council owns a portion near Second Road that will be set aside for restricted access. Three or four areas exist as mixed access per old logging agreements; however, there are no formal agreements in place for public access.

Attorney Edwards stated that snowmobiling is a significant economic engine for the State and this area provides access and trails for such activities. It is also used for cross-country skiing. She further stated that the Rodrigue's have subdivided and sold a portion of their land as camp blocks with approximately 50 to 60 owners. Attorney Edwards expressed concern that while the snowmobile trail land is still held by the Rodrigue's, it will ultimately be turned over to the homeowners association and if the surplus land review process were delayed the state would be faced with negotiations between numerous parties rather than just the Rodrigue's.

Chairman Ignatius asked if the formalization of public access was agreeable to the Rodrigue's, to which Attorney Edwards responded that it is. Mr. McConaha asked if there was any new construction planned in the area. Attorney Edwards responded that there is not.

Mr. Uncles asked why this request was presented in such a time-sensitive manner. Attorney Edwards responded that the Rodrigue's are threatening to shut off access to roads used by the State for its logging operations. Attorney Edwards further stated that per conversations with the Town of Clarksville and Burnham Judd of the Coos County Board of Commissioners, the surrounding communities are in favor of this plan.

Mr. Uncles asked if feedback from LMAC has been received. Ms. Czysz said their response was "Not subject to review by LMAC" due to the easement area's distance from the lake. However, it will be reviewed by RMAC at their September 25, 2007 meeting because the easement areas includes a stream crossing.

Mr. Drew asked if the conveyed roads would be maintained by the Rodrigue's, to which Attorney Edwards responded that they would maintain only the easement conveyed to them. Chairman Ignatius asked who has stewardship of the land. The response was Connecticut Lakes, DRED-Trails Bureau and Department of Forests and Lands, DES-Water Resources Council, and North Country Timber. It was further noted that the Division of Parks and Recreation have an 18-month plan for recreation.

Chairman Ignatius asked if there were any other land trusts involved. Attorney Edwards responded that there are not. Ms. Wilson asked why the State feels it is necessary to grant an easement. Attorney Edwards responded that access roads owned by DRED are subject to gates and bars at any time.

Mr. Gamache added that public access is of vital importance as these areas serve as corridors to two prime snowmobile trails located at Big Diamond Pond and the Colebrook/Pittsburg area. The New Hampshire Snowmobile Association also utilizes these corridors.

Discussion followed regarding CORD's comment period, the Department of Justice and DRED's desire to present the request to the Long Range Capital Planning and Utilization Committee as soon as possible, and the feasibility of scheduling an interim CORD meeting allowing time for review.

Mr. McConaha asked if Mr. Rodrigue's suggestion that this easement be granted quickly or they will block logging operations should be taken seriously. He offered that Attorney Edwards could relay to the Rodrigue's that CORD is making a good-faith effort but needs more time to make a decision. Attorney Edwards responded that the Rodrigue's are frustrated but are also at fault. She added that she is not forcing CORD to make a decision that would make them feel uncomfortable.

Mr. Drew noted the important role winter activities play in the State's economy and suggested that CORD schedule an October meeting in order to expedite a decision. Chairman Ignatius stated that any extra effort put forth to achieve a full quorum at the October meeting would be helpful, such as asking their respective commissioners/directors to attend. There was discussion as to the legality of a phone poll in the event participation was via conference call. Attorney Edwards assured members that votes via conference lines during the scheduled meeting time are valid as long as the speakerphone is located in a public area.

ACTION: MOVED by Mr. Drew, seconded by Mr. Uncles, to SCHEDULE a meeting of CORD in October. The motion passed unanimously, 7-0. A meeting date of October 12, 2007 at 1:30 PM was agreed upon.

Mr. Barker asked the members if it was possible to bring the Laware request to the table at the October meeting. Chairman Ignatius said the possibility exists and that she will notify the City of Lebanon.

IV. NEW BUSINESS (Part I)

Mr. McConaha announced that today's CORD meeting would be the last he attends. He expressed his gratitude for the opportunity to participate in decisions that have such a positive impact on the future of our State. He also expressed how much he enjoyed working with the members of CORD.

A. Discussion of Possible New Legislation. Representative Richard Snow has contacted OEP staff and offered to sponsor new legislation that could benefit CORD in the upcoming session.

September 6, 2007 Discussion:

Representative Snow appeared before the members to provide information on HB76, a bill created to establish an environmental policy for the State, and to discuss how CORD can assist in achieving the bill's ultimate goal. He perceives CORD as an effective vehicle due in part to the Commissioners who form the Council. He views CORD as a functional group and valuable tool to accomplishing tasks set by statute. He believes CORD, judged by its participation of agency designees, functions more as a subcommittee of CORD.

Rep. Snow believes that public perception is that the State does development. He sees HB76 as a tool to do things with RSA 9-A and 9-B, helping to raise awareness to protect the environment through joint collaboration with CORD.

Mr. Carpenter asked Rep. Snow if he had worked on environmental policies elsewhere or prior to his role as State Representative, to which Rep. Snow replied no.

Mr. Drew asked Rep. Snow if criteria would be set for every project. Rep. Snow replied that it would cover every project the State has money in. Mr. Drew asked if it covered private projects. Rep. Snow replied only State projects.

Chairman Ignatius explained how CORD serves in two different roles – from the commissioner-level of discussion to plodding through the work schedule, and that the Council's authority changed from decision making to advisory.

Rep. Snow stated that he would like the Governor to report every two years to the legislature documenting how the State is performing in implementing the state development plan. Additionally, he is willing to make statutory changes to RSA 162-C:1 to allow designees of the various CORD member agencies to vote at meetings.

V. OLD BUSINESS

A. HB710 Study Commission and Mapping State-owned Lands. Update on the commission to study issues relative to the practice of leasing State-owned real estate on the shores of public waters and OEP's progress to compile state agency map data of land holdings in proximity to water bodies.

September 6, 2007 Discussion:

Ms. Czysz reported that the Study Commission held its first meeting on September 18, 2007. She displayed a map created by Ken Gallagher of the Office of Energy and Planning that identifies State-owned real estate on public waters. Mr. Carpenter pointed out that coastal properties were missing, such as Hampton Beach. Ms. Czysz stated that focus was placed on lakes and rivers and will be revised to include all bodies of water.

B. Smart Growth Report - Implementation Plan. Complete the implementation plan for the report's prioritized recommendations. This is a continuation of work conducted at the January, March and May CORD meetings. Draft implementation plan distributed by email on August 23, 2007.

September 6, 2007 Discussion:

Due to time constraints, Ms. Czysz asked the members to please review the plan and submit their comments to her. This item will be placed on the November CORD agenda.

C. State Development Plan. Overview of progress to date.

September 6, 2007 Discussion:

Chairman Ignatius stated that sections of the plan have been posted on the OEP website for review. Since the complete package can be overwhelming, she encouraged stakeholders to first check the chapter headings to determine what sections are of interest to their agencies.

Ms. Wilson commented that the Cultural Resources section of the plan was well written in that it expressed their department's theme in the way they strive to convey it.

VI. NEW BUSINESS (Part II)

A. CORD Rules of Procedure. Presentation of CORD's rules of procedure prepared in 1987 and 1989, and discussion of possible updates to reflect recent statutory changes.

September 6, 2007 Discussion:

Members were asked to review the revisions made by Ms. Czysz and to forward her their comments.

VII. CORD 2007 - 2008 PROPOSED MEETING SCHEDULE

Chairman Ignatius asked the members if they would want to reschedule the November 1st meeting to a date in December. Mr. Uncles said the November meeting would provide a good opportunity for Council to work on administrative items. It was agreed to leave the schedule as follows:

October 12, 2007 at 1:30 PM
November 1, 2007
January 3, 2008

March 6, 2008

All meetings will be held at the Office of Energy and Planning, 57 Regional Drive, Concord, NH, unless otherwise noted. Meetings begin at 9:30 AM.

VIII. ADJOURNMENT

The meeting adjourned at 12:00 PM.

Respectfully Submitted,

Amy Ignatius
Chairman

AI/mkz